

## **REMARKS**

The Applicant thanks the Examiner for the careful consideration of this application. Claims 216-233 are currently pending. Claims 1-215 have been canceled, without prejudice. New claims 216-233 have been added. Based on the foregoing amendments and the following remarks, the Applicant respectfully requests that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

### **Claim Objections**

The Office Action objected to claim 54 for containing an informality. Claim 54 has been canceled, without prejudice, thereby rendering this objection moot.

### **Rejections under 35 U.S.C. § 112**

The Office Action rejected claim 64 under 35 U.S.C. § 112, second paragraph, as being indefinite. Claim 64 has been canceled, without prejudice, thereby rendering this rejection moot.

### **Rejections under 35 U.S.C. § 102**

The Office Action rejected claims 211, 1, 4, 5, 7, 9, 10, 12, 13, 16-18, 34, 54, and 64 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,976,064 to Julien ("Julien"). Claims 211, 1, 4, 5, 7, 9, 10, 12, 13, 16-18, 34, 54, and 64 have been canceled, without prejudice,

thereby rendering this rejection moot.

Rejections under 35 U.S.C. § 103

(I) The Office Action rejected claims 6, 8, and 32 under 35 U.S.C. § 103(a) as being unpatentable over Julien. Claims 6, 8, and 32 have been canceled, without prejudice, thereby rendering this rejection moot.

(II) The Office Action rejected claim 30 under 35 U.S.C. § 103(a) as being unpatentable over Julien in view of U.S. Patent No. 4,170,844 to Steele (“Steele”). Claim 30 has been canceled, without prejudice, thereby rendering this rejection moot.

(III) The Office Action rejected claim 15 under 35 U.S.C. § 103(a) as being unpatentable over Julien in view of U.S. Patent No. 4,332,105 to Nir (“Nir”). Claim 15 has been canceled, without prejudice, thereby rendering this rejection moot.

(IV) The Office Action rejected claim 11 under 35 U.S.C. § 103(a) as being unpatentable over Julien in view of U.S. Patent No. 4,177,604 to Friesen (“Friesen”). Claim 11 has been canceled, without prejudice, thereby rendering this rejection moot.

New Claims

New claims 216-233 have been added to further define the claimed invention. Claims 216 and 233 are the independent claims. Claim 216 and 233 have been drafted to recite, *inter alia*, the structural features of a self-contained, tabletop aeroponic or hydroponic garden. The Applicant respectfully submits that new claims 216-233 are patentable over any reasonable

combination of Julien, Steele, Nir, and Friesen for at least the following three reasons.

**First**, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a photoradiation hood supported above the cover by an adjustable support arm extending upward from [a] base,” as recited by claims 216 and 233. In rejecting previous claim 30, now cancelled, the Office Action states that Steele “teaches it is notoriously well-known to provide light to growing plants,” pointing to the fluorescent lamps 46 of Steele’s FIG. 1. However, Steele’s fluorescent lamps 46 are not “supported . . . by an adjustable support arm extending upward from [a] base,” as claimed. Rather, Steele’s fluorescent lamps 46 are suspended from above by chains 42 that extend from each end of the lamps 46 to opposed end frames 15, 16. (See Steele at 4:35-5:6, FIG. 2.) Therefore, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a photoradiation hood supported above the cover by an adjustable support arm extending upward from [a] base,” as recited by claims 216 and 233.

**Second**, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a controller located on the base, the controller adapted to switch the artificial light source on and off on a timed light cycle,” as recited by claims 216 and 233. In rejecting previous claim 30, now cancelled, the Office Action cites to the fluorescent lamps 46 of Steele’s FIG. 1. However, Steele does not disclose “a controller located on [a] base, the controller adapted to switch the” fluorescent lamps 46 “on and off on a timed light cycle,” as claimed. To the extent that Nir and Friesen can be considered to disclose controllers, such controllers are not “located on the base” of a “self-contained, tabletop aeroponic or hydroponic garden,” as claimed. Accordingly, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a controller located on the

base, the controller adapted to switch the artificial light source on and off on a timed light cycle,” as recited by claims 216 and 233.

**Third**, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a display panel located on the base, the display panel being in communication with the controller, wherein the display panel includes an add nutrient indicator that operates on a timed nutrient cycle,” as recited by claims 216 and 233. In rejecting claim 30, now canceled, the Office Action apparently aligns the tank 1 of Julien’s FIG. 1 with the claimed “vessel.” The Applicant submits that the “vessel” of previous claim 30 is analogous to the “chamber supported on [a] base” of claims 216 and 233. Assuming, for argument’s sake, that Julien’s tank 1 includes a “base” in the context of claims 216 and 233, Julien does not disclose “a display panel located on” the tank 1 “wherein the display panel includes an add nutrient indicator that operates on a timed nutrient cycle,” as claimed. Julien is devoid of such a feature, and Steele, Nir, and Friesen fail to provide the missing disclosure. Therefore, no reasonable combination of Julien, Steele, Nir, and Friesen discloses “a display panel located on the base, the display panel being in communication with the controller, wherein the display panel includes an add nutrient indicator that operates on a timed nutrient cycle,” as recited by claims 216 and 233.

The Applicant respectfully submits that independent claims 216 and 233 are patentable over any reasonable combination of Julien, Steele, Nir, and Friesen, for at least the foregoing three reasons. Claims 217-232 depend from claim 216, and are patentable for at least the same reasons.

Applicant: W. Michael Bissonnette et al.  
Appl. No.: 10/528,110

**Conclusion**

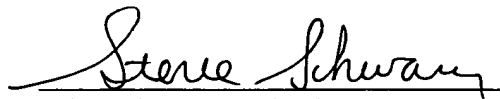
All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicant, therefore, respectfully requests that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn.

Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is hereby invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment is respectfully requested.

Respectfully submitted,

Date: 6/16/2008



Michael A. Sartori, Ph.D.  
Registration No. 41,289  
Steven J. Schwarz  
Registration No. 47,070  
VENABLE LLP  
P.O. Box 34385  
Washington, DC 20043-9998  
Telephone: (202) 344-4000  
Telefax: (202) 344-8300

#296768